

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLICATION No 2259 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgment?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

LATABEN - DESERTED WIFE OF CHINTANKUMAR MANSUKHLAL DABHI
Versus
CHINTANKUMAR MANSUKHLAL DABHI

Appearance:

MR VD PARGHI for the Petitioner.
MR DILIP B RANA for the Respondent.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 06/04/2004

ORAL JUDGEMENT

By filing this petition under Section 24 of the Code of Civil Procedure, the petitioner has prayed that HMP No.29 of 2003 which is filed by the present respondent and which is pending before the Court of Civil Judge (Senior Division), at Godhra, be transferred to the

Court of Civil Judge (Senior Division), at Himatnagar. The petitioner is the wife of the respondent and because of dispute in matrimonial home, both of them have taken proceedings before the court of law.

The petitioner herein has filed a petition, being HMP No.33 of 2000, which is pending before the Civil Judge (Senior Division), Himatnagar. The said petition is filed for getting decree for restitution of conjugal rights. The respondent-husband has also filed a petition, being HMP No.29 of 2003, for getting decree for divorce, which is pending before the Civil Judge (Senior Division), at Godhra.

By filing this Application, the applicant has prayed that the petition filed by the husband before the Court of Civil Judge (Senior Division), Godhra be transferred to the Court of Civil Judge (Senior Division), Himatnagar, so that both the proceedings can be heard together. On behalf of the applicant, it is submitted that the applicant is having a minor child and, therefore, it is difficult for her to travel upto Godhra with the child to attend the said proceedings at Godhra. It is submitted that both the said proceedings are required to be heard together. Mr.Parghi, learned Advocate for the applicant, has also relied upon the decision of the Apex Court in Sumita Singh v. Kumar Sanjay and another, AIR 2002 SC 396, to substantiate his say that the convenience of the wife is required to be considered at the time of deciding the application under Section 24 of the Code of Civil Procedure.

Mr.Rana, learned Advocate for the respondent, after getting instructions from his client, submitted that since the proceedings are pending before two different courts and since it would be proper to have both the proceedings heard together, he has no objection if the petition which is pending before the Court of Civil Judge (Senior Division), Godhra, is transferred to the Court of Civil Judge (Senior Division), Himatnagar, so that both the proceedings initiated by the husband and wife can be heard together. He requested that since the respondent-husband is required to go to Himatnagar to attend HMP No.33 of 2000 pending before the Civil Judge (Senior Division), Himatnagar, and since he has to give up his job, it would be appropriate if both the proceedings are heard expeditiously, considering the fact that it is a matrimonial dispute. Since the respondent is agreeable to transfer HMP No.29 of 2003, pending before the Court of Civil Judge (Senior Division), Godhra to the Court of Civil Judge (Senior Division), Himatnagar,

it is directed that HMP No.29 of 2003 pending before the Court of Civil Judge (Senior Division), Godhra be transferred to the Court of Civil Judge (Senior Division), at Himatnagar. After such transfer, HMP No.33 of 2000 as well as HMP No.29 of 2003, both to be heard together and considering the fact that it is a matter regarding matrimonial dispute, the Civil Judge (Senior Division), Himatnagar is directed to dispose of the same within six months from the date of receipt of the papers from the Court of Civil Judge (Senior Division), Godhra. It is agreed by the Advocates for both the sides, that their respective clients will cooperate with the early hearing of the aforesaid proceedings before the Court of Civil Judge (Senior Division), Himatnagar.

The Application is accordingly allowed. Rule is made absolute accordingly, with no order as to costs.

The office is directed to send the writ forthwith to the Court of Civil Judge (Senior Division), Godhra for transferring the case papers of HMP No.29 of 2003 to the Court of Civil Judge (Senior Division), Himatnagar and thereafter, the Court of Civil Judge (Senior Division), Himatnagar shall decide both the proceedings within the stipulated time, as indicated above.

6th April, 2004 (P.B. Majmudar, J.)

(apj)